

AMENDED IN SENATE SEPTEMBER 7, 1999

AMENDED IN SENATE AUGUST 30, 1999

AMENDED IN ASSEMBLY MAY 24, 1999

AMENDED IN ASSEMBLY APRIL 5, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1517

Introduced by Assembly Member Firebaugh

February 26, 1999

An act to add Section 19826 to the Business and Professions Code, and to add Section 319.1 to the Penal Code, relating to gambling.

LEGISLATIVE COUNSEL'S DIGEST

AB 1517, as amended, Firebaugh. Gambling: progressive ~~pool~~ pot games.

Existing law generally prohibits anyone, other than the California State Lottery, from contriving, preparing, setting up, proposing, or drawing any lottery, defined to be any scheme for the disposal or distribution of property by chance among persons who have paid or promised to pay any valuable consideration for the chance of obtaining all or a portion of the property, with a violation of these and other related provisions punishable as a misdemeanor. The California Constitution provides that the Legislature has no power to authorize lotteries. Existing case law provides that the card game of

jackpot poker, a form of progressive ~~pool~~ pot game, is an unlawful lottery because the game is dominated by chance.

The Gambling Control Act provides for the establishment of the Gambling Control Commission, and provides that the commission has jurisdiction over the operation of gambling establishments in this state.

This bill would *state findings and declarations of the Legislature, and would* provide that a progressive ~~pool~~ pot game played in a gambling establishment licensed by the commission is not unlawful if the game contains ~~an element~~ *elements* of skill. The bill would require the commission to adopt regulations as specified, relating to the collection, accounting, and disbursal of all funds held for progressive ~~pool~~ pot payouts. The bill would provide that the commission, by regulation, shall authorize a gambling establishment to make a monthly deduction from the funds in the progressive ~~pool~~ pot for specified expenses, would allow the local government entity in which the establishment is located to require the gambling establishment to make a monthly deduction of up to 5% of the funds in the progressive ~~pool~~ pot, to be paid to that local government entity as a licensing fee or for administrative costs, and would provide that after these deductions the remaining funds shall be irrevocably dedicated to augment or otherwise fund the winnings of players. The bill would enact other related provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. (a) *The Legislature finds and declares*
 2 *that numerous California cities are dependent on*
 3 *revenues from gambling establishments to support*
 4 *essential municipal services. A number of cities receive in*
 5 *excess of 40 percent of their general fund revenues from*
 6 *fees collected from gambling establishments licensed*
 7 *pursuant to the Gambling Control Act (Chapter 5*
 8 *(commencing with Section 19800) of Division 8 of the*
 9 *Business and Professions Code). The prohibition against*
 10 *smoking in places of employment has caused the*

1 revenues paid to municipalities by gambling
2 establishments to decline in some locations by as much as
3 12 percent. The continued loss of these revenues will
4 require the reduction of essential services in these
5 municipalities, including law enforcement, fire, and gang
6 prevention activities. Therefore, it is the intent of the
7 Legislature to clarify the law to restore the play of jackpot
8 and progressive pot poker games authorized by the
9 California Gambling Control Commission.

10 (b) Since 1974, card clubs in California have played
11 poker-style card games with side bets based on achieving
12 designated hands. If a player achieves a designated hand,
13 he or she receives all or a portion of the pot for that side
14 bet. The funds in these pots remain the property of
15 players and are distributed only to players. Poker games
16 have been found by the courts to be games of skill. It is the
17 intent of the Legislature to clarify the law to expressly
18 permit the play of progressive pot games attached to
19 various poker games where the funds in the pot are
20 dedicated to the benefit of players who achieve certain
21 designated hands.

22 SEC. 2. Section 19826 is added to the Business and
23 Professions Code, to read:

24 19826. The commission shall adopt regulations
25 providing for the collection, accounting, and disbursal of
26 all funds held for progressive ~~pool~~ pot payouts. The
27 commission shall, by regulation, authorize a gambling
28 establishment to make a monthly deduction of funds from
29 the pool sufficient to cover the expenses of the
30 establishment in collecting, disbursing, and accounting
31 for the funds in the ~~pool~~ pot. The city, county, or city and
32 county in which the gambling establishment is located
33 may require the establishment to make a monthly
34 deduction of up to 5 percent of the funds in the
35 progressive ~~pool~~ pot to be paid to that city, county, or city
36 and county as a licensing fee or for administrative costs.
37 Funds remaining in the progressive ~~pool~~ pot after these
38 two deductions shall be irrevocably dedicated to
39 augment or otherwise fund the winnings of players. The
40 gambling establishment shall record the name, address,

1 and driver's license or state identification card number
2 for each winner of a progressive ~~pool~~ *pot* that exceeds five
3 thousand dollars (\$5,000). This information shall be
4 provided to the commission once each quarter. The
5 regulations adopted by the commission shall (a) require
6 a gambling establishment to use separate collection boxes
7 for progressive ~~pool~~ *pot* funds and for other funds, (b)
8 require the collections in progressive ~~pool~~ *pot* funds to be
9 counted separately from the other funds, and (c) require
10 the use and implementation of electronic accounting
11 devices at the gambling tables, *or, at clubs with fewer*
12 *than 100 tables, a manual accounting system approved by*
13 *the commission*, which will ensure the integrity and
14 accuracy of the accounting of funds in the progressive
15 ~~pool~~ *pot*.

16 SEC. 3. Section 319.1 is added to the Penal Code, to
17 read:

18 319.1. Notwithstanding any other provision of this
19 chapter, it is not unlawful for a progressive ~~pool~~ *pot* game
20 to be played with cards consistent with regulations
21 adopted pursuant to Section 19826 of the Business and
22 Professions Code, in a gambling establishment that is
23 licensed by the California Gambling Control Commission
24 pursuant to the Gambling Control Act (Chapter 5
25 (commencing with Section 19800) of Division 8 of the
26 Business and Professions Code), if the game contains ~~an~~
27 ~~element~~ *elements* of skill.